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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.								
10/527,030	09/02/2005	Nigel Francis Gamble	0078/01680	5463								
7590 Cherskov & Flaynik The Civic Opera Building 20 N Wacker Drive Chicago, IL 60606		08/06/2007	<table border="1"><tr><td colspan="2">EXAMINER</td></tr><tr><td colspan="2">KUMAR, RAKESH</td></tr><tr><td>ART UNIT</td><td>PAPER NUMBER</td></tr><tr><td>3654</td><td></td></tr></table>		EXAMINER		KUMAR, RAKESH		ART UNIT	PAPER NUMBER	3654	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/527,030	<b>Applicant(s)</b> GAMBLE, NIGEL FRANCIS	
	<b>Examiner</b> Rakesh Kumar	<b>Art Unit</b> 3654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on Amendment filed 05/10/2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 6-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                 | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date. _____ | 6) <input type="checkbox"/> Other: _____  |

## **Final Rejection**

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1-4, 6,7 and 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wittern (US 5,570,811) in view of Yasaka (US 6,253,954).

Referring to claims 1-4. Wittern discloses a pusher apparatus (Figure 5) comprising:

- a track (50; Figure 6);
- a pusher (66) mounted on the track (50) for movement along the track (50);
- a spring (80; coil spring 81) mounted on the pusher (66) for urging the pusher along the track (50);
- an axle (94 and 83) rotatably mounted on the pusher (66) ; and
- at least two wheels (96 and 93) fixed to the axle (94 and 83) for simultaneous rotation.

Wittern does not disclose the track lines comprising means to engage teeth and further Wittern does not disclose wheels comprising teeth to positively engage the track lines.

Yasaka discloses a pusher apparatus (Figure 5) comprising a track (R1) with lines comprising means to engage teeth (see teeth on track R1) and wherein each wheel (including P1, P2 and P3) comprises teeth (see teeth on P1, P2 and P3) to positively engage said means on the track lines (R1) such that all said wheels move simultaneously along said lines so as to prevent canting of the apparatus.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the teachings of Wittern to include wheels comprising teeth to positively engage the slotted track formed at the base of the dispensing column as taught by Yasaka because the meshing of the gear teeth with the slotted track would prevent side canting and further apply a uniform pressure to the back of the article engaging the pusher.

Referring to claim 6. Wittern disclose an apparatus for dispensing items from a vending machine wherein a first end of the spring (80) is attached to a front end of the track (50 by screw 82; Figure 3) and a second end of the spring (80; coil 81) is attached to the pusher (66), whereby coiling of the spring (81) draws the pusher along the track (50).

Referring to claim 7. Wittern disclose an apparatus for dispensing items from a vending machine wherein a second axle (83; Col. 7 line 58-67) mounted on the pusher (66), wherein the second (coil end) end of the spring (80; coil 81) is coiled about the second axle (83).

Referring to claim 10. Wittern disclose an apparatus for dispensing items from a vending machine further comprising a latch (67; Figure 6) for retaining the pusher (66) at a desired position along the track (50).

Referring to claims 11 and 12. Wittern disclose an apparatus for dispensing items from a vending machine wherein a trigger means (62) located at the front end of the track (50), wherein the latch (67) is mounted on the track (50) and is operable by the trigger means (62) to release the pusher (66; the pusher moves forward to eject the front most article) from the desired position.

Claims 8, 9, 13 and 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wittern in view of Yasaka as applied to claim 4 above, and further in view of Rankin (US 6,464,089).

Referring to claims 8, 9, 13 and 14-17. Wittern in view of Yasaka disclose all claimed limitations of claim 8 however, Wittern in view of Yasaka do not disclose a rotary damper mounted on the pusher for regulating the rate of coiling of the spring.

Rankin discloses an adjustable spring driven pusher device (Figure 1) comprising a rotary damper (54) mounted on the pusher (34) for regulating the rate of coiling or

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uncoiling of the spring (20), wherein the rotary damper (54) includes means for adjusting (see handle grip 4) the damping effect of the damper

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the teachings of Wittern in view of Yasaka to include a rotary damper to regulate the rate of coiling or uncoiling of the spring in the pusher as taught by Rankin because by regulating the coiling rate various type articles can be dispensed by the pusher without being damaged or being partially crushed.

Regarding claim 15, see claim rejection 6 above.

#### ***Allowable Subject Matter***

The indicated allowability of claims 8 and 9 (as stated in Office Action mailed 01/08/2007) is withdrawn in view of the newly discovered reference(s) to Rankin (US 6,464,089). Rejections based on the newly cited reference(s) as stated above.

#### ***Response to Arguments***

Applicant's arguments with respect to claims 1-17 have been considered but are moot in view of the new ground(s) of rejection. See claim rejections above.

#### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

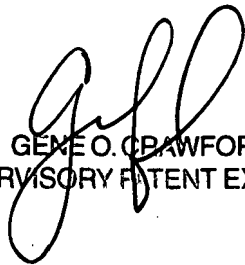
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rakesh Kumar whose telephone number is (517) 272-8314. The examiner can normally be reached on 8:00AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RK  
July 25, 2007



GENE O. CRAWFORD  
SUPERVISORY PATENT EXAMINER